United Nations S/2002/488

Security Council

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29 April 2002
English
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Letter dated 26 April 2002 from the Permanent Representative of Rwanda to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to transmit to you, so as to provide a better understanding of developments in Sun City, the Rwandan Government's reaction to the latest suspension of deliberations, and a press release from the Alliance pour la Sauvegarde du Dialogue Intercongolais (see annexes).

The Government of the Rwandese Republic has supported and continues to support the Inter-Congolese Dialogue as one of the major components for implementation of the Lusaka peace accords.

My Government thinks it is regrettable that two of the parties to the Inter-Congolese Dialogue have departed from the spirit of the Dialogue to conclude a self-serving agreement, without taking into account the interests of the Congolese nation and the Congolese people as a whole.

My Government appeals to all the Congolese parties to commit themselves to safeguarding the Inter-Congolese Dialogue, which everyone hopes will bring a definitive solution to a Congolese crisis that has lasted far too long.

I should be grateful if you would have this document and the two annexes circulated as a Security Council document.

(*Signed*) Anastase **Gasana**
Ambassador
Permanent Representative

02-35702 (E) 290402 290402

Annex I to the letter dated 26 April 2002 from the Permanent Representative of Rwanda to the United Nations addressed to the President of the Security Council

[Original: English]

The Kabila-Bemba deal is not a product of the inter-Congolese dialogue

1. The principal objective of the inter-Congolese dialogue is to create, in a consensual manner, a new political dispensation and national reconciliation. All the parties to the negotiations enjoy equal status and all resolutions adopted through the inter-Congolese dialogue shall be binding on all participants. The dialogue should result in formation of transitional institutions, a unified army, and a reunified territory. These institutions must therefore be inclusive and consensual.

2. The dialogue is conducted under the aegis of a neutral facilitator agreed upon by the Congolese parties to the Lusaka Agreement, in the person of Sir Ketumile Masire, former President of Botswana. The dialogue, which was supposed to run for 45 days in Sun City, Republic of South Africa, was due to end on 12 April 2002. Only four of the five standing committees had completed their work and the plenary session had adopted 37 resolutions. The only outstanding issue then was the question of power-sharing in a framework of transitional institutions.

3. After consultations with all the parties, the host country's Head of State worked on a draft proposal, which was submitted to the facilitator. The parties were given seven days within which to submit amendments or counterproposals for negotiations. All the parties except the Government and MLC submitted and discussed their views.

4. On 18 April, the Government and MLC announced their deal to the consternation of all the other negotiators, most of whom they had contacted. The two could not get support either for their deal or for operating outside the facilitation. It was an act of defiance against the Congolese people, the facilitator, the host country, and all the signatories of the Lusaka Agreement.

5. The response of the facilitator was quick and firm. He characterized the so-called deal as "a satellite out of orbit which should be controlled and brought back". The Congolese parties roundly condemned it. The so-called deal was a non-starter. The deal sought to consolidate Kabila's hold on power, ignoring all the other parties. Bemba sold his movement and his erstwhile allies down the drain. The political opposition and the Forces vives were contemptuously left out.

6. We recommend:

- that the parties return to the dialogue under the aegis of the facilitator;
- that negotiations resume, through the Follow-up Committee proposed by the facilitator on 19 April 2002;
- that negotiations continue on the basis of the 12 April power-sharing proposal;

- that the parties ensure that the conclusions are based on respect for all, power-sharing, and inclusiveness.

The Government of the Republic of Rwanda
24 April 2002

Annex II to the letter dated 26 April 2002 from the Permanent Representative of Rwanda to the United Nations addressed to the President of the Security Council

[Original: French]

Press release from the Alliance pour la Sauvegarde du Dialogue Intercongolais in response to the press release from the President of the Security Council

The Alliance pour la Sauvegarde du Dialogue Intercongolais is surprised by the press release issued in New York on 23 April 2002 by the President of the United Nations Security Council, Ambassador Sergey Lavrov of the Russian Federation, concerning the work of the Inter-Congolese Dialogue in Sun City, South Africa.

In response to that press release, the Alliance issues the following statement:

1. The Security Council must be aware, as it had its representatives in Sun City, that what it considers a political agreement wrongly attributed to the Inter-Congolese Dialogue is in fact only a private arrangement between two of the five parties to the Inter-Congolese Dialogue. That agreement was negotiated in a hotel room in the utmost secrecy, far from the neutral Facilitator of the Inter-Congolese Dialogue, Sir Ketumile Masire, and the President of the host country, His Excellency Mr. Thabo Mbeki of South Africa.

2. This arrangement between two parties was publicly described by the Facilitator in the plenary session on 19 April 2002 as a coup d'état. It is a strike against the Congolese nation, an act of sabotage against the Facilitator's efforts and a challenge to Africa as a whole and, in particular, to South Africa and its President, whose moral and material support for the Inter-Congolese Dialogue has been crucial.

3. Through the neutral Facilitator, President Mbeki had submitted to the Inter-Congolese Dialogue a plan to address the last item on the agenda of the Inter-Congolese Dialogue: the new political order. The plan had been welcomed by all the parties to the Dialogue, except MLC, which had transmitted amendments and comments to the Facilitator and President Mbeki. As the plenary session was about to debate those amendments, the Kinshasa Government and MLC announced the arrangement they had concluded outside the official framework of the Inter-Congolese Dialogue. During that plenary session, the two parties even refused to submit their agreement for consideration.

4. This informal arrangement simply allowed two men, President Joseph Kabila and Mr. Jean-Pierre Bemba, to appoint themselves President of the Republic and Prime Minister. It does not meet any of the objectives of the Inter-Congolese Dialogue. It does not permit reunification of the national territory, establishment of peace and security in the country, national reconciliation, consensual and inclusive management of the transition through a new institutional framework, or the holding of free and transparent elections towards the end of the transition.

5. If the Government and MLC really want a peaceful settlement of the crisis in our country, their only option is to return to the negotiating table within the

framework of the Follow-up Committee established by the plenary session of the Inter-Congolese Dialogue in the presence of President Thabo Mbeki, the goal of which is to pursue consultations with a view to bringing the Inter-Congolese Dialogue to fruition.

6. The Alliance denounces that private, informal, illegal, exclusive and non-consensual agreement, which represents a genuine conspiracy against the Congolese nation. It reiterates its commitment to respect the process of the Inter-Congolese Dialogue in accordance with the Lusaka Agreement.

7. The Alliance reaffirms its involvement in the Follow-up Committee with a view to establishing, in a consensual and inclusive manner, the new transitional institutions and appointing the coordinators.

8. The alliance appeals to the Congolese people to resist by peaceful means the acts of deception perpetrated by the Kinshasa Government and MLC, which attempted to use the framework of the Inter-Congolese Dialogue in order to seize power. It calls on the neutral Facilitator to pursue his mission to the end, bearing in mind the objectives of the Inter-Congolese Dialogue.

9. The Alliance calls on peace-loving and freedom-loving countries and the international community to exert appropriate pressure on the Kinshasa Government and MLC, so as to prevent a resumption of hostilities or the de facto partition of the Democratic Republic of the Congo embodied in that private agreement.

10. Lastly, the Alliance declares its determination to do its utmost to thwart any move that would violate the letter and spirit of the Lusaka Agreement or the Inter-Congolese Dialogue.

DONE at Johannesburg, South Africa, on 25 April 2002.

For the organizations and groups in the political opposition:

(*Signed*) Tshisekedi **wa Mulumba**
National President of the Union pour la
Démocratie et le Progrès Social (UDPS)

(*Signed*) Raphaël **Katebe Katoto**
President of the Dynamique pour une Transition Neutre (DPTN)

(*Signed*) Franck **Diongo**
For the Group of 20
National President of the Mouvement Lumumbiste Progressiste (MLP)

(*Signed*) Alafuele Mbuyi **Kalala**
President of the Rassemblement pour une Nouvelle Société (RNS)

For the Rassemblement Congolais pour la Démocratie (RCD):

(*Signed*) Adolphe **Onusumba Yemba**
President

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29 April 2002

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Letter dated 14 March 2002 from the President of the Governing Council of the United Nations Compensation Commission addressed to the President of the Security Council

The Governing Council of the United Nations Compensation Commission has concluded its forty-third session, which was held at Geneva on 12 and 13 March 2002. At the opening plenary meeting of the session the Council elected Bulgaria as a Vice-President of the Governing Council. Representatives of Kuwait and Iraq addressed the Council during the plenary meeting. The statements of the delegations are being sent by mail with the original of this letter.

During the session the Council considered eight reports and recommendations made by the Panels of Commissioners in the D, E3, E4, F1, F2 and F3 categories of claims. The reports on category D claims concern the review of individual claims for damages above US$ 100,000; the report on E3 claims concerns the review of non-Kuwaiti construction and engineering claims; the reports on E4 claims concern the review of Kuwaiti corporate claims; the report on F1 claims concerns the review of claims filed by Governments for losses related to departure and evacuation costs or damage to physical property, and claims filed by international organizations; the report on F2 claims concerns the review of claims filed by the Government of Saudi Arabia; and the report on F3 claims concerns the review of claims of the Government of Kuwait. With the approval of the reports on F1 and F2 claims at the forty-third session, those claims' programmes have now been completed. The tables (annex I) provide details of the amounts of compensation claimed in the reports and the amounts awarded by the Governing Council.

The Governing Council considered the report of the Executive Secretary: summary of activities, covering the period from 1 November 2001 to 31 January 2002. The report covers the processing of claims, the withdrawal of claims, and the payment of approved claims.

The Council discussed several issues relating to the processing and payment of claims, including the seventeenth report of the Executive Secretary pursuant to article 41 of the Provisional Rules for Claims Procedure, and approved corrections to certain category A and category C claims.

The Council concluded its consideration of the request of the delegation of Turkey, made at the opening plenary meeting of the forty-second session, that the Council initiate a study of how to determine the rates of interest on awards, referring to the provisions of decision 16. That decision provides that interest will be awarded from the date the loss occurred until the date of payment, at a rate sufficient to compensate successful claimants for the loss of use of the principal amount of the award; that the methods of calculation

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and of payment of interest will be considered by the Governing Council at the appropriate time; and that interest will be paid after the principal amount of awards. The Council recommended that the methods of calculation and payment of interest be addressed at a future session of the Governing Council at the appropriate time.

The Council heard a presentation form the secretariat concerning the request of the Government of the Syrian Arab Republic that an issue relating to a category E corporate claim filed by the Government of Israel be brought to the attention of the Council. After being informed by the secretariat that an information note was being prepared, the Council decided that the issue should be considered at an informal meeting of the Working Group on the basis of the note.

The Council also heard a presentation from the secretariat concerning the environmental monitoring and assessment claims and the proposed assistance of the United Nations Environment Programme (UNEP) to the Compensation Commission, and received an information note on this issue, together with the proposed memorandum of understanding between UNEP and the Commission, and a budget prepared by UNEP. The Council referred this matter to an informal meeting of the Working Group for its further consideration.

The Council heard a presentation from the secretariat concerning the request of the Office of Internal Oversight Services that its observations on a category F2 claim filed by the Government of Jordan be brought to the attention of the Council. The secretariat informed the Council that it was in the process of preparing an information note on this issue, to be distributed after the session, for its further consideration.

The Council considered and took note of the report of the Executive Secretary on the distribution of payments and transparency, and the return of undistributed funds, and requested the secretariat to continue to inform the Council of the reports of Governments and international organizations on the distribution of payments and the return of undistributed funds. The Council also considered the issue of the frequency of payments under decision 100 of the Governing Council, in the light of an information note, prepared by the secretariat pursuant to the Council's request, on the implementation of decision 100 of the Governing Council concerning the payment mechanism for the third phase of payment. Effective as from the forty-third session of the Governing Council, so as to ensure that payments are made to claimants as soon as practicable (within three to five weeks) after the session at which their claims are approved, the Council recommended that paragraph 1 (f) of decision 100 be amended to read: "payments under the third phase will be made every three months for distribution among successful claimants". The next payment is scheduled for 4 April 2002 so as to include claims approved at the forty-third session.

To date, the Commission has awarded compensation of over $37.7 billion, including the awards approved at the forty-third session, out of an amount of compensation claimed of approximately $129 billion. Over $13.8 billion of the amounts awarded has been made available to Governments and international organizations for distribution to successful claimants in all categories of claims.

Finally, the Governing Council decided to hold its forty-fourth session from 18 to 20 June 2002.

(*Signed*) Sverre Bergh **Johansen**
President of the Governing Council

Annex I

Summary of recommendations

A. Report and recommendations made by the D2 Panel of Commissioners concerning the tenth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/2002/1)

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Kuwait	609	1	404 984 363.94	281 551 235.07

B. Report and recommendations made by the D1 Panel of Commissioners concerning the eleventh instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/2002/2)

Country or international organization	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Australia	1	-	393 905.22	27 404.38
Canada	9	1	10 534 055.39	3 197 454.94
Denmark	1	-	434 658.98	85 286.74
Egypt	1	-	168 689.02	13 917.00
India	23	4	11 163 044.29	2 666 246.80
Iran (Islamic Republic of)	-	4	3 649 619.38	nil
Jordan	152	12	147 772 460.30	38 963 830.04
Kuwait	248	7	176 570 418.07	119 095 340.17
Lebanon	1	-	10 380.62	72 035.00
Pakistan	1	-	586 014.00	80 714.12
Singapore	1	-	286 685.05	22 222.00
Syrian Arab Republic	5	1	5 579 744.87	1 451 747.60
United Kingdom	2	-	423 154.47	108 447.00
United States	1	-	4 138 711.57	614 460.10
Yemen	39	8	21 731 313.44	5 765 067.95
UNDP Yemen	1	-	749 445.00	268 224.98
UNRWA Gaza	1	-	106 121.11	29 316.00
Total	**487**	**37**	**384 298 420.78**	**172 461 714.82**

C. Report and recommendations made by the Panel of Commissioners concerning the twenty-third instalment of E3 claims (S/AC.26/2002/3)

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Germany	3	1	3 200 717	517 622
Japan	-	2	5 011 566	nil
Netherlands	1	1	858 284	229 956
The former Yugoslav Republic of Macedonia	-	1	904 272	nil
United Kingdom	2	1	106 051	67 282
United States	1	-	1 244 869	156 705
Total	**7**	**6**	**11 325 759**	**971 565**

D. Report and recommendations made by the Panel of Commissioners concerning the nineteenth instalment of E4 claims (S/AC.26/2002/4)

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Kuwait	134	5	198 832 602	80 250 015

E. Report and recommendations made by the Panel of Commissioners concerning the twentieth instalment of E4 claims (S/AC.26/2002/5)

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Kuwait	144	1	227 556 737	99 339 950
United States	1	-	1 551 377	237 562
Total	**145**	**1**	**229 108 114**	**99 577 512**

F. Report and recommendations made by the Panel of Commissioners concerning the sixth instalment of F1 claims (S/AC.26/2002/6)

Country or international organization	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Egypt	2	2	130 765 815	9 368 845
Iran (Islamic Republic of)	2	1	9 428 275 190	9 821 393
Sri Lanka	1	-	109 384	49 993
Tunisia	2	-	219 262	92 417
Arab Fund for Economic and Social Development	1	-	68 895 173	6 758 927
Arab Towns Organization	1	-	1 100 021	63 388
The Arab Planning Institute — Kuwait	1	-	3 331 135	796 069
The Gulf Arab States Educational Research Centre	1	-	792 388	215 927
The Inter-Arab Investment Guarantee Corporation	1	-	6 292 272	58 761
The Joint Programme Production Institution for the Arab Gulf Countries	1	-	16 856 644	4 529 934
Total	13	3	9 656 637 284	31 755 654

G. Report and recommendations made by the Panel of Commissioners concerning the third instalment of F2 claims (S/AC.26/2002/7)

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Saudi Arabia	14	4	9 393 747 198	158 706 818

H. Report and recommendations made by the Panel of Commissioners concerning part one of the third instalment of F3 claims (S/AC.26/2002/8)

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Kuwait	15	-	3 766 611 484	940 577 000

Annex II

Documents before the Compensation Commission at its forty-third session

1. Report and recommendations made by the D2 Panel of Commissioners concerning the tenth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/2002/1).
2. Decision concerning the tenth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/Dec.146 (2002)).
3. Report and recommendations made by the D1 Panel of Commissioners concerning the eleventh instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/2002/2).
4. Decision concerning the eleventh instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/Dec.147 (2002)).
5. Report and recommendations made by the Panel of Commissioners concerning the twenty-third instalment of E3 claims (S/AC.26/2002/3).
6. Decision concerning the twenty-third instalment of E3 claims (S/AC.26/Dec.148 (2002)).
7. Report and recommendations made by the Panel of Commissioners concerning the nineteenth instalment of E4 claims (S/AC.26/2002/4).
8. Decision concerning the nineteenth instalment of E4 claims (S/AC.26/Dec.149 (2002)).
9. Report and recommendations made by the Panel of Commissioners concerning the twentieth instalment of E4 claims (S/AC.26/2002/5).
10. Decision concerning the twentieth instalment of E4 claims (S/AC.26/Dec.150 (2002)).
11. Report and recommendations made by the Panel of Commissioners concerning the sixth instalment of F1 claims (S/AC.26/2002/6).
12. Decision concerning the sixth instalment of F1 claims (S/AC.26/Dec.151 (2002)).
13. Report and recommendations made by the Panel of Commissioners concerning the third instalment of F2 claims (S/AC.26/2002/7).
14. Decision concerning the third instalment of F2 claims (S/AC.26/Dec.152 (2002)).
15. Report and recommendations made by the Panel of Commissioners concerning part one of third instalment of F3 claims (S/AC.26/2002/8).
16. Decision concerning part one of the third instalment of F3 claims (S/AC.26/Dec.153 (2002)).
17. Seventeenth report of the Executive Secretary pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/2002/9).

18. Decision concerning corrections of awards pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/Dec.154 (2002)).

19. Decision concerning the priority of payment and payment mechanism for the third phase of payment (S/AC.26/Dec.100 (2000)/rev.1).

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Letter dated 26 April 2002 from the Permanent Representative of Spain to the United Nations addressed to the Security Council

I have the honour to bring to your attention the statement on constitutional reforms in Bosnia and Herzegovina, issued on 23 April 2002 by the Presidency of the European Union on behalf of the European Union (see annex).

I should be grateful if you would have the text of this letter and its annex distributed as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Permanent Representative of Spain to the United Nations

02-36086 (E) 010502 010502

Annex to the letter dated 26 April 2002 from the Permanent Representative of Spain to the United Nations addressed to the Secretary-General

[Original: English, French and Spanish]

Statement on constitutional reforms in Bosnia and Herzegovina, issued on 23 April 2002 by the Presidency of the European Union on behalf of the European Union

The European Union welcomes the completion of the process of amendment of the constitutions in both entities of Bosnia and Herzegovina, in compliance with the Constitutional Court's decisions on the equal status of the constituent peoples throughout Bosnia and Herzegovina.

The European Union commends those political leaders in both entities whose efforts have brought this constitutional reform process to a successful close, in accordance with the Sarajevo Agreement of 27 March. It also commends the efforts undertaken by the High Representative to facilitate those efforts. Serious doubts have been cast, however, on the abilities of other political actors of Bosnia and Herzegovina to engage as responsible partners with the international community.

Bosnia and Herzegovina has taken an important step forward in terms of its democratic development and commitment to the rule of law. The constitutional reform was indeed crucial for the future stability of Bosnia and Herzegovina and for the development of the country according to modern European standards. It signifies progress in Bosnia and Herzegovina's approximation to European structures. The European Union encourages all leaders of Bosnia and Herzegovina to fully embrace this outcome and to engage in a swift implementation of the constitutional reforms.

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Letter dated 26 April 2002 from the Permanent Representative of Spain to the United Nations addressed to the Secretary-General

I have the honour to bring to your attention the statement on the Middle East issued on 24 April 2002 by the Presidency of the European Union on behalf of the European Union (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Permanent Representative of Spain to the United Nations

02-36092 (E) 010502 010502

Annex to the letter dated 26 April 2002 from the Permanent Representative of Spain to the United Nations addressed to the Secretary-General

[Original: English, French and Spanish]

Statement on the Middle East issued on 24 April 2002 by the Presidency of the European Union on behalf of the European Union

The European Union urgently calls for medical and humanitarian organizations to have immediate access to the Palestinian population as called for in resolution 1405 (2002), adopted last night by the United Nations Security Council, which stated its concern at the "dire humanitarian situation" of that population.

It stresses the importance of the initiative taken by the Secretary-General of the United Nations to obtain detailed information on the events that took place in the Jenin refugee camp; this initiative was endorsed by the Security Council and favourably received by the parties concerned.

The European Union calls upon all parties to make every effort to bring about a peaceful end to the siege of the Church of the Nativity in Bethlehem.

It warns against any use of force against the headquarters of the Palestinian Authority in Ramallah which could endanger the physical safety of President Arafat and others on the premises.

The European Union is prepared to assist in finding a legal solution to the question of persons detained by the Palestinian Authority who are in the Palestinian presidential complex.

The European Union repeats the need for concerted and sustained international action to implement the Joint Declaration of the Quartet of 10 April 2002 and, in particular, the immediate application of Security Council resolution 1402 (2002), as called for in resolution 1403 (2002).

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United States of America: draft resolution

The Security Council,

Recalling all its previous resolutions on Western Sahara, in particular resolution 1394 (2002) of 27 February 2002,

1. *Decides* to extend the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) until 31 July 2002 in order to consider further the report of the Secretary-General of 19 February 2002 (S/2002/178);

2. *Decides* to remain seized of the matter.

02-36068 (E) 300402